

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**THC ORANGE COUNTY INC. D/B/A  
KINDRED HOSPITAL – ONTARIO**

**and**

**Case 31-CA-162635**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 121RN**

**KINDRED HOSPITAL SOUTH BAY**

**and**

**Case 21-CA-162717**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
UNITED HEALTHCARE WORKERS –WEST**

**KINDRED HOSPITAL ONTARIO**

**and**

**Case 31-CA-162764**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
UNITED HEALTHCARE WORKERS –WEST**

**KND DEVELOPMENT 53 LLC D/B/A  
KINDRED SOUTH BAY**

**and**

**Case 31-CA-162789**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 121RN**

**ORDER**

The Petition to Revoke subpoena duces tecum B-1-QITHH9, filed by KND Development 53 LLC d/b/a Kindred South Bay, and the Petition to Revoke subpoena duces tecum B-1-QK2TN1, filed by Kindred Hospital Ontario, are denied as untimely. Section 11(1) of the Act and Sections 102.31(b) and 102.111 of the Board's Rules and

Regulations require that a petition to revoke an investigative subpoena must be filed within 5 days after the date of service of the subpoena. The subpoenas here were served on February 29, 2016. Thus, the petitions, which were filed on March 9, 2016, are untimely.

In addition, even assuming that the petitions were timely filed, they are lacking in merit.<sup>1</sup> The subpoenas seek information relevant to the matters under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioners have failed to establish any other legal basis for revoking the subpoenas. See generally, *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).<sup>2</sup>

Dated, Washington, D.C., December 21, 2016

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

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<sup>1</sup> Member Miscimarra would deny the petitions to revoke solely on the ground that they were untimely filed.

<sup>2</sup> We note that the Region has indicated that, to the extent that the Employers have provided some of the requested material, the Region would be willing to withdraw the related subpoena requests, provided that the Employers accurately describe which documents under subpoena have been provided, stipulate that they have no other responsive documents, and stipulate to the authenticity of the documents already provided.